

Helen F. Dalton & Associates, PC
Roman Avshalumov (RA5508)
69-12 Austin Street
Forest Hills, NY 11375
Telephone: 718-263-9591

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ROCAEL ANTONIO CULAJAY, individually and on behalf of
all others similarly situated,

Plaintiff,

-against-

P.M.F. STEEL CORP., and HELDER CARDOSO and MARIA
G. MARTINS, as individuals,

Defendants.
-----X

**ATTORNEY'S
AFFIRMATION FOR
MOTION TO ENTER
DEFAULT JUDGMENT**

16-CV-6597 (JS)(GRB)

The law firm of Helen F. Dalton and Assoc., P.C. represents the Plaintiff ROCAEL ANTONIO CULAJAY (hereinafter "Plaintiff") in the above referenced matter.

This is an action to recover money damages owed by the Defendants to Plaintiff for violations of Federal and State overtime wage laws arising out of Plaintiff ROCAEL ANTONIO CULAJAY employment by Defendants P.M.F. STEEL CORP., and HELDER CARDOSO and MARIA G. MARTINS, (hereinafter "Defendants") located at 88 East Merrick Road, Freeport, New York 11520.

To Enter Default Judgment against Defendants

1. Plaintiff started an action against the defendants by filing of a Summons and Complaint on November 29, 2016. See Summons and Complaint attached hereto as (See **Exhibit A**).
2. On December 5, 2016 at approximately 1:58p.m., copies of the Summons and Complaint were served at the P.M.F. Steel Corp. location at 88 East Merrick Road, Freeport, NY 11520

upon John C., managing agent and authorized to accept on behalf of the Defendants. (See Proof of Service form attached hereto as **Exhibit B**.)

3. On December 8, 2016, a copy of the Summons and Complaint was mailed to individual Defendant Helder Cardoso at 88 East Merrick Road, Freeport, NY 11520 (See **Exhibit C**).

4. On December 8, 2016, a copy of the Summons and Complaint was mailed to individual Defendant Maria G. Martins at 88 East Merrick Road, Freeport, NY 11520 (See **Exhibit D**).

5. Defendants were to respond to the Complaint no later than December 29, 2016.

6. On or around January 31, 2017, I spoke with Phil, who represented that he was an agent of the corporate defendant, P.M.F. Steel Corp., and advised him of this lawsuit and the Defendants' obligation to respond to the Complaint or otherwise appear in this matter.

7. Phil acknowledged that Defendants were aware of the lawsuit and would speak with the individual defendants regarding responding to the Complaint.

8. In February 2017, I left multiple messages for corporate Defendant, P.M.F. Steel Corp. regarding whether they intended to respond to the Complaint. I have not received any additional response from the Defendants.

9. Our office has no additional contact information for the Defendants.

10. To date, Defendants have yet to file an answer.

11. This office attempted to contact Defendants about this matter several times, but we were unable to speak with Defendants.

12. On March 22, 2017, our office filed a Request for Certificate of Default and such Default was noted by the clerk of the Court on March 27, 2017. The entry of Default is attached hereto as **Exhibit "E"**.

13. To date, Defendants have not responded or otherwise appeared on this matter.

Judgment should be entered for sum certain against Defendants

14. Plaintiff ROCAEL ANTONIO CULAJAY was employed by Defendants at P.M.F. STEEL CORP., and HELDER CARDOSO and MARIA G. MARTINS, from in or around July 2012 until in or around May 2014.

15. During Plaintiff ROCAEL ANTONIO CULAJAY'S employment by Defendants at P.M.F. STEEL CORP., Plaintiff's primary duties were as a construction worker, and performing other miscellaneous duties from in or around July 2012 until in or around May 2014.

16. Plaintiff ROCAEL ANTONIO CULAJAY was paid by Defendants approximately \$16.25 per hour from in our around July 2012 until in or around May 2014.

17. Although Plaintiff ROCAEL ANTONIO CULAJAY worked approximately 47.5 to 57 hours or more per week during his employment by Defendants from in or around July 2012 until in or around May 2014, Defendants did not pay Plaintiff time and a half (1.5) for hours worked over forty (40), a blatant violation of the overtime provisions contained in the FLSA and NYLL.

18. Upon information and belief, Defendants willfully failed to post notices of the minimum wage and overtime wage requirements in a conspicuous place at the location of their employment as required by both the NYLL and the FLSA.

19. Defendants failed to provide Plaintiff with a written notice, in English and in Spanish (Plaintiff's primary language) of his rate of pay, regular pay day, and such other information as required by NYLL §195(1).

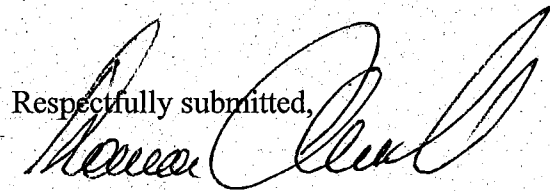
20. Defendants failed to provide Plaintiff with wage statements upon each payment of wages, as required by NYLL §195(3).

21. Plaintiff ROCAEL ANTONIO CULAJAY is owed overtime wages from in or around July 2012 until in or around May 2014 in the amount of \$9,919.41, In addition, Plaintiff ROCAEL ANTONIO CULAJAY is owed liquidated damages in the amount of \$3,018.95 and statutory penalties in the amount of \$10,000.00 for violations of notice and wage statement requirements under New York Labor Law. Therefore, Defendants owe Plaintiff ROCAEL ANTONIO CULAJAY a total of \$22,938.36. See calculations for Plaintiff ROCAEL ANTONIO CULAJAY attached hereto as Exhibit "F".

WHEREFORE, Counsel for the Plaintiff respectfully requests that the Court issue an Order granting Default Judgment for sum certain against the Defendants P.M.F. STEEL CORP., and HELDER CARDOSO and MARIA G. MARTINS, in the amount of \$22,938.36 for Plaintiff ROCAEL ANTONIO CULAJAY and any other relief the Court deems just and proper, and affirming and entering the Proposed Default Judgment against Defendants with sum certain filed with this motion in favor of the Plaintiff and against defendants.

Dated: May 18, 2017
Forest Hills, NY

Respectfully submitted,



Roman Avshalumov (R.A. 5508)
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Forest Hills, NY 11375
Tel: (718) 263-9591

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ROCAEL ANTONIO CULAJAY, individually and on behalf of all
others similarly situated,

16-CV-6597 (JS)(GRB)

Plaintiff,

**AFFIRMATION OF
SERVICE**

-against-

P.M.F. STEEL CORP., and HELDER CARDOSO and MARIA G.
MARTINS, as individuals,

Defendants.

-----X
STATE OF NEW YORK :

ss.:

COUNTY OF QUEENS:

ROMAN AVSHALUMOV, an attorney duly admitted to practice law in the District Court for the Eastern District of New York affirms the truth of the following under penalty of perjury: I am not a party to the action, am over the age of eighteen (18) years and reside in Queens, New York. On May 18, 2017, I served the within

**ATTORNEY'S AFFIRMATION FOR MOTION TO ENTER DEFAULT JUDGMENT AND PROPOSED
DEFAULT JUDGMENT ORDER**

by depositing a true copy thereof in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

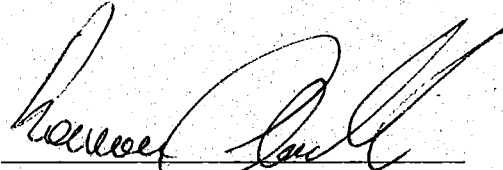
P.M.F. STEEL CORP.
88 EAST MERRICK ROAD
FREEPORT, NY 11520

HELDER CARDOSO
88 EAST MERRICK ROAD
FREEPORT, NY 11520

MARIA G. MARTINS
88 EAST MERRICK ROAD
FREEPORT, NY 11520

Dated: FOREST HILLS, NY

May 18, 2017


ROMAN AVSHALUMOV, ESQ.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ROCAEL ANTONIO CULAJAY, individually and on behalf of all others similarly situated,

Plaintiff,

-against-

P.M.F. STEEL CORP., and HELDER CARDOSO and MARIA G. MARTINS, as individuals,

Defendants.

**ATTORNEY'S AFFIRMATION FOR MOTION TO ENTER DEFAULT JUDGMENT
AND PROPOSED DEFAULT JUDGMENT ORDER**

HELEN F. DALTON & ASSOCIATES, P.C.

Attorneys for Plaintiff

69-12 Austin Street

Forest Hills, NY 11375

Phone (718) 263-9591

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TO:

**P.M.F. STEEL CORP.
88 EAST MERRICK ROAD
FREEPORT, NY 11520**

**HELDER CARDOSO
88 EAST MERRICK ROAD
FREEPORT, NY 11520**

**MARIA G. MARTINS
88 EAST MERRICK ROAD
FREEPORT, NY 11520**